
Local Government & Housing Committee

ESSB 5800

Brief Description: Regarding shorelines of statewide significance.

Sponsors: Senate Committee on Government Operations & Elections (originally sponsored by Senators Fraser, Swecker, Fairley, Murray, Shin and Kline).

Brief Summary of Engrossed Substitute Bill

- Adds segments of Budd Inlet and the Capitol Waterway to list of "shorelines of statewide significance" delineated in the Shoreline Management Act.
- Establishes a special height district in the area adjacent to the Budd Inlet and Capitol Waterway segments that are delineated as shorelines of statewide significance.
- Specifies that the maximum allowable height for new or remodeled buildings or structures in the special height district is 35 feet.

Hearing Date: 3/25/09

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Background:

The Shoreline Management Act.

The Shoreline Management Act (SMA) governs uses of state shorelines. The SMA enunciates state policy to provide for shoreline management by planning for and fostering "all reasonable and appropriate uses." The SMA prioritizes public shoreline access and enjoyment, and creates preference criteria in prioritized order that must be used by state and local governments in regulating shoreline uses. The SMA applies to all marine waters, streams meeting specific flow requirements, lakes greater than 20 acres in size, shorelands extending 200 feet landward from the edge of these waters, and qualifying wetlands, river deltas, and 100-year floodplain areas.

The SMA involves a cooperative regulatory approach between local governments and the state. At the local level, SMA regulations are developed in local shoreline master programs (master

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programs). All counties and cities with shorelines of the state are required to adopt master programs that regulate land use activities in shoreline areas of the state. Counties and cities are also required to enforce their master programs within their jurisdictions. Master programs must be consistent with guidelines adopted by the Department of Ecology (DOE), and the programs, and segments of or amendments to, become effective when approved by the DOE.

Each local government must establish a program for the administration and enforcement of a shoreline permit system. While the SMA specifies standards for counties and cities to review and approve permit applications, the administration of the permit system is performed exclusively by the local government. Counties and cities are also required to notify the DOE of all permit decisions under the SMA. Additionally, only the DOE may approve variance or conditional use permits that authorize actions otherwise prohibited by shoreline regulations.

Shorelines of Statewide Significance.

In addition to jurisdictional and regulatory requirements for shorelines of the state, the SMA delineates specific areas as "shorelines of statewide significance." Examples of these areas include:

- the area between the ordinary high water mark and the western boundary of the state from Cape Disappointment on the south to Cape Flattery on the north, including harbors, bays, estuaries, and inlet;
- those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide; and
- Those areas of Puget Sound and adjacent salt waters and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide, including Nisqually Delta from DeWolf Bight to Tatsolo Point, and Birch Bay from Point Whitehorn to Birch Point.

Although the SMA does not establish additional requirements for the use of or construction on shorelines of statewide significance, the Legislature has declared that the interest of all people must be paramount in the management of these shorelines. The DOE, in adopting guidelines for shorelines of statewide significance, and local governments, in developing master programs for shorelines of statewide significance, must give preference in prioritized order to uses that:

- recognize and protect the statewide interest over local interest;
- preserve the natural character of the shoreline;
- result in long-term over short-term benefit;
- protect the resources and ecology of the shoreline;
- increase public access to publicly owned areas of the shorelines;
- increase recreational opportunities for the public in the shoreline; and
- provide for any other element deemed appropriate or necessary.

Optional Municipal Code - Planning and Zoning in Code Cities.

In 1967 the Legislature established the optional municipal code as an alternative form of classification of city government. Cities that operate under the optional municipal code (*i.e.*, code cities) have broad statutory home rule authority in matters of local concern. Of the 281 Washington cities, 187 operate under the optional municipal code.

Among numerous provisions in the optional municipal code, code cities were granted express authority to adopt a comprehensive plan for anticipating and influencing the orderly and coordinated development of land and building uses within the city. After adopting a comprehensive plan, code cities may implement all or part of the plan through ordinances that provide for certain regulatory provisions, including:

- the adoption of an official map and regulations relating to locations and requirements for streets, parks, public buildings, and other public facilities;
- dividing the city into land use zones with specific standards, requirements, and conditions for regulating land and buildings; and
- the adoption of design standards, requirements, regulations, and procedures for the subdivision of land.

Summary of Bill:

The following segments of Puget Sound, between the ordinary high water mark and the line of extreme low tide, are added to the SMA as shorelines of statewide significance:

Budd Inlet--from the northwest extension of the Capitol Waterway in Olympia to the Deschutes spillway, and including the historic shoreline of Budd Inlet contained in Capitol Lake from the Deschutes spillway to the southwest extension of Capitol Waterway.

A special height district is created on the Olympia Isthmus in the area adjacent to the segments of Budd Inlet and the Capitol Waterway that are declared shorelines of statewide significance. The stated purpose for the height district's creation is to protect the scenic beauty of the state capitol campus for Washington's citizens and out-of-state visitors.

The Olympia Isthmus special height district is located as follows: the Olympia Isthmus--from the western boundary of the Capitol Waterway in Olympia proceeding west to the shoreline of the Deschutes spillway bounded by the Capitol Lake shoreline and the Budd Inlet shoreline.

The maximum allowable height for a new or remodeled building or structure within the height district is 35 feet. Provisions of the height district apply only to new construction and remodeling or restructuring that affects the height of the building. An express provision indicates that the height district requirements are not intended to prevent normal repair, maintenance, and internal remodeling of any building already exceeding the height limitation.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.